

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:11-CR-61
)	
RALPH VANOVER,)	(VARLAN/SHIRLEY)
)	
Defendant.)	

MEMORANDUM AND ORDER

This case came before the Court on March 5, 2012, for an arraignment on the Superseding Indictment [Doc. 16] motion hearing on the Defendants' Motion to Continue Trial [Doc. 17], filed on March 13, 2012, and referred [Doc. 19] to the undersigned on the following day. See 28 U.S.C. § 636(b). Assistant United States Attorneys Alexandra Hui and Kelly A. Norris appeared on behalf of the Government. Attorney Jonathan A. Moffatt represented the Defendant, who was also present.

In his motion, the Defendant asks the Court to continue the March 27, 2012 trial date in order to give defense counsel additional time to prepare the case for trial. The motion states that counsel is experiencing an unusually heavy case load, related in part to counsel's responsibility for cases from a retired coworker. Counsel also has a trial starting April 9, 2012, for which the preparation will take most of his available time for the next thirty days. The motion states that counsel has explained the need for a continuance to the Defendant, who understands that all time between the filing of the motion and a new trial date will be excludable. At the March 15 hearing,

Mr. Moffat told the Court that it appears this case will go to trial and that, for the reasons stated in the motion, he needs additional time to prepare. The Court questioned the Defendant, who stated that he did not object to a trial continuance.

The Government was not opposed to the motion to continue. AUSA Hui, who is leaving the Eastern District, informed the Court that AUSA Norris would be taking over the case. The parties agreed to a new trial date of June 26, 2012.

The Court finds the motion to continue the March 27, 2012 trial date to be well-taken and that the ends of justice served by granting a continuance outweigh the interest of the Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). Defense counsel needs additional time to investigate the case, to interview witnesses, and to prepare the case for trial, while balancing a heavy case load. AUSA Norris will also need time to familiarize herself with the case and prepare for trial. Accordingly, the Court finds, and the parties agree, that a three-month continuance would further the ends of justice in this case. The Court finds that the failure to grant a continuance would deprive counsel of time to prepare for trial despite their use of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

The Defendant's Motion to Continue Trial [**Doc. 17**] is **GRANTED**, and the trial of this matter is reset to **June 26, 2012**. The Court also finds that all the time between the filing of the motion on March 13, 2012, and the new trial date of June 26, 2012, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(1)(D) & -(7)(A)-(B). With regard to other scheduling in this case, the Court set a new deadline of **June 5, 2012**, for completing plea negotiations. The Court instructs the parties that all motions *in limine* must be filed no later than **June 11, 2012**. Special requests for jury instructions shall be submitted to the District

Court no later than **June 15, 2012**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

Accordingly, it is **ORDERED**:

- (1) The Defendant's Motion to Continue Trial [**Doc. 17**] is **GRANTED**;
- (2) The trial of this matter is reset to commence on **June 26, 2012, at 9:00 a.m.**, before the Honorable Thomas A. Varlan, United States District Judge;
- (3) All time between the filing of the motion to continue on **March 13, 2012**, and the new trial date of **June 26, 2012**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;
- (4) The plea negotiation cut-off deadline in this case is **June 5, 2012**;
- (5) Motions *in limine* must be filed no later than **June 11, 2012**; and
- (6) Special requests for jury instructions with appropriate citations shall be submitted to the District Court by **June 15, 2012**.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge